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From: Earl Lagergren <76266.3014@CompuServe.COM>  
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FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF SECRETARY

For the attention of the Federal Communications Commission,  
 Common Carrier Bureau, email: rm8775@fcc.gov

Informal ex parte comments on RM8775

From: Earl LAGERGREN, 76266.3014@compuserve.com

I am filing comments both as a concerned consumer and as a professional holder of the First Class Radiotelephone License since 1962, as well as being very interested in the Internet and its developments.

#### 1) PETITIONER'S ARGUMENT

Software manufacturers are telecommunication carriers

#### COMMENTS

The petitioner fails to explain how software manufacturers can be telecommunication carriers. Nor does the petitioner explain why just some software manufacturers are telecommunication carriers, but others such as Netscape and Microsoft who make software browsers for the Internet are not. In fact, the newest Netscape browser integrates voice.

The fact is that only those companies who carry the bits and bytes can be considered telecommunication carriers, such as

AT&T, IBM, MCI, SPRINT, etc. These companies are tarified, certified entities carrying analog and digital traffic. Neither the carriers, nor the FCC, nor anyone else cares whether the digital traffic is X.25, frame relay, ATM, or TCP/IP. Nor does anyone care, nor can anyone control whether digital traffic is computer interactive activity, file transfer, video conferencing, voice over data, or voice only.

The petitioner fails to explain why manufacturers of phone only software should be considered to be telecommunication carriers, but not software manufacturers making audio-visual teleconferencing software for the Internet. Are modem manufacturers now telecommunication carriers if they make simultaneous voice and data modems? What non-logical argumentation the ACTA uses.

The petitioner cleverly avoids submitting proof how a software manufacturer could be considered a telecommunications carrier because such an argument is total and utter nonsense. It is like submitting that a transistor manufacturer or microwave transmitter or antenna manufacturer is a telecommunication carrier.

I suggest the FCC decline to take any action on RM8755 and reject the petition for the simple reason that software manufacturers can in no way whatsoever be considered to be telecommunication carriers.

#### 2) PETITIONER'S ARGUMENT

The petitioner submits software allows users to make free or next to free telephone calls and therefore should be forbidden since this "unfair" competition is not traditional and such innovation will clearly be detrimental to the health of the telecom industry and maintenance of its infrastructure.

#### COMMENTS

The petitioner contradicts himself. first saying that users pay nothing and then saying they pay for the software and also for

Internet access. The big telecom carrier whales invest lots of money in the infrastructure necessary for conveying the bits and bytes of the Internet. The bandwidth is sold wholesale which then gets broken up and ever smaller pieces of the bandwidth sold to ever smaller fish until the enduser finally buys his Internet access. If one takes 20 million Internet endusers each paying \$25-\$50 for monthly access, this can not be considered

"paying nothing or next to nothing". The amount of money being paid to telecommunication carriers for carrying TCP/IP traffic is more than enough to assure the health of the telecom industry as well as its maintenance.

The telecommunication carriers don't think the ACTA petition has merit and AT&T called it "whining". Just a short time ago

America On Line and Compuserve were whining that Microsoft was being an unfair competitor by offering access to its MSN via

Windows95 and wanted legal action against Microsoft. AOL and MS have just announced they are cooperating. The FCC should stay away from an area where the movers and shakers and whiners make 180 degree U-turns in the matter of months.

Instead of whining the ACTA members should get their butts moving and take advantage of all the new opportunities opened up by Internet. If the FCC takes on a mandate to support a whiner, a hundred more will be waiting at the door.

In effect, the ACTA is saying we are traditional makers of mechanical wrist watches and want the FCC to declare it has a mandate to forbid the utilization of new technology such as digital watches. If people start buying watches with digital

ICs in them, then traditional mechanical watch makers will go out of business and this is unfair.

The Swiss watch makers whined and then decided to react. They created the enormously popular SWATCH. The ACTA should also react instead of whining.

### 3) PETITIONER'S ARGUMENT

The FCC should take on a new mandate to set new rules and police the Internet to avoid over-congestion of the Net.

#### COMMENTS

Many people are against excessive usage of bandwidth and even

Netscape and Microsoft have been criticized for increasing bandwidth by introducing cute little animations and colors and graphics. But these and voice communication are nothing compared to video over the Net which many companies want to introduce.

I doubt the FCC has the resources or budget to keep up with the fast-moving pace of Internet innovations. The petitioner fails to submit how the FCC is going to evaluate all new Internet developments and judge which are "OK" and which are forbidden.

Should the FCC forbid colors and graphics and allow only black & white ASCII text? This would save a lot of bandwidth.

There are already many calls in Congress to eliminate the FCC.

The petitioner has failed to indicate how the FCC could take on such a controversial mandate to regulate and police the Internet without it being abolished by Congress. Nor has the Petitioner submitted how the FCC would obtain a budget allocation from

Congress for \$20 billion dollars which is what it would cost to take on this new mandate. Without this increase in budget it would not begin to be possible to control and police the world- wide transfer of software over the Internet.

The petitioner has failed to submit how it is technologically possible to censor the transfer of phone software into the USA from overseas, even with an unlimited budget. It is well-known that any attempt to censor the Internet causes it to react as it was designed: it treats the censorship as an atomic bomb and reroutes the traffic automatically.

The petitioner has also failed to submit how the FCC could monitor or forbid JAVA applets containing phone software.

The petitioner has failed to submit why the Internet Society with its Engineering Task Force is not capable of regulating the

Internet to the benefit of all citizens of all countries.

#### SUMMARY

I ask the FCC to reject RM8755 in its entirety; software manufacturers are not telecommunication carriers nor is regulation of Internet traffic in the interest of the FCC nor the public. Attempted regulation of the Internet on a national basis is futile, the Internet is extraterritorial and only when all laws of all countries are all identical will regulation function. The FCC does not have the budget necessary to adopt this new proposed mandate and never will have a sufficient budget to do so.

With kindest regards,

Mr. Earl LAGERGREN